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OEA

SERVICE DATE – NOVEMBER 20, 2013

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-290 (Sub-No. 352X)

**Norfolk Southern Railway Company – Abandonment Exemption –
in Fayette and Wayne Counties, Ind.**

Docket No. AB-1093 (Sub-No. 1X)

**C&NC Railroad Corporation – Discontinuance of Service Exemption –
in Fayette and Wayne Counties, Ind.**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) and C&NC Railroad Corporation (CNUR) filed a joint notice under 49 C.F.R. § 1152 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of an approximately 0.61 mile line of railroad located in Fayette and Wayne Counties, Indiana. The rail line proposed for abandonment extends from Milepost CB 4.80 to Milepost CB 5.41 in the City of Connersville and Washington Township, Indiana (the Line). The joint notice seeks authority from the Surface Transportation Board (the Board) for NSR to abandon the Line and for CNUR to discontinue its common carrier obligation over the Line. A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

NSR and CNUR submitted an Environmental Report that concludes the quality of the human environment would not be significantly affected as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR and CNUR served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-290 (Sub-No. 352X).

Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

NSR and CUNR state that no local traffic has moved over the Line for at least two years and that there is no overhead traffic. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

If abandonment authority is granted in this proceeding, NSR states that it intends to salvage track and track material from the rail right-of-way. The contours of the existing roadbed would not be altered and drainage systems would be left intact. Salvage would not entail any digging or burying and no rail ballast would be removed.

The U.S. Natural Resource Conservation Service (NRCS) submitted comments stating that the proposed abandonment would not result in the conversion of prime farmland. Accordingly, no mitigation regarding the conservation of agricultural land is recommended.

NSR states, and OEA review has confirmed, that the Line does not cross and is not immediately adjacent to any waterways. In its review of available data, OEA has concluded that the Line does not cross any wetlands, but appears to be adjacent to a freshwater pond near the crossing at Neuman Lake Road.²

The U.S. Army Corps of Engineers (the Corps) submitted comments stating that the proposed abandonment would not impact any waterways or wetlands and would therefore not require a Corps permit under Section 404 of the Clean Water Act.³ Because the proposed abandonment would be limited to the removal of track and ties, OEA concurs with the Corp's determination that no waterways or wetlands would be affected.

NSR requested comments from the U.S. Environmental Protection Agency (USEPA) and the Indian Department of Environmental Management (IDEM) regarding compliance with Section 402 of the Clean Water Act⁴ and other applicable local, state, and federal water quality regulations. To date, these agencies have not provided comments. NSR states that the proposed

² U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory Mapper, <http://www.fws.gov/wetlands/Wetlands-Mapper.html> (last visited November 19, 2013).

³ 33 U.S.C. § 1344.

⁴ 33 U.S.C. § 1342.

abandonment would not result in any impacts to water quality. Because salvage activities would be limited to the removal of track and ties, OEA concurs with NSR's determination that permitting under Section 402 of the Clean Water Act would not be required. OEA is sending a copy of this EA to the IDEM for their comment and review.

NSR states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA review has confirmed that there are no listed Superfund sites in the vicinity of the Line.⁵ Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

In its review of available geospatial data, OEA has concluded that the Line is not located in an area designated as critical habitat.⁶ OEA also conducted a search of the U.S. Fish and Wildlife Service (USFWS) Environmental Conservation Online System in order to identify any federally listed endangered or threatened species that may be present in the vicinity of the Line.⁷ The search identified the Indiana bat (*Myotis sodalis*) as the only federally listed endangered species known or believed to occur in Fayette and Wayne Counties, Indiana. The search did not identify any threatened species known or believed to occur in the two counties.

Threats to the Indiana bat include disease, habitat loss, pollution, and disturbance by humans. Because NSR does not anticipate any activities that may result in such impacts, OEA believes that the proposed abandonment would not result in any impacts to Indiana bat or any other federally listed threatened or endangered species.

USFWS submitted comments stating that the agency has no objection to the abandonment as proposed. Accordingly, no mitigation regarding the protection of threatened or endangered species is recommended.

NSR requested comments from the National Park Service (NPS) regarding the potential impact of the proposed abandonment on wildlife sanctuaries or refuges, parks, or other protected areas, but has received no response to date. In its review of available geospatial data, OEA has concluded that the Line is not located in or adjacent to any local or national park; wildlife sanctuary or refuge; or other protected area. Accordingly, no mitigation regarding protected areas is recommended.

⁵ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited November 19, 2013).

⁶ U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://criticalhabitat.fws.gov/crithab> (last visited November 19, 2013).

⁷ U.S. Fish and Wildlife Service, Environmental Conservation Online System, <http://ecos.fws.gov/ecos/home.action> (last visited November 19, 2013).

The National Geodetic Survey (NGS) submitted comments stating that no geodetic station markers are located within the project area. Accordingly, no mitigation regarding the potential disturbance of geodetic station markers is recommended.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to IDEM for that agency's comment and review.

HISTORIC REVIEW

According to NSR, the Line was originally part of the Fort Wayne, Muncie, and Cincinnati Railroad, which was incorporated in 1886. The Line was sold to the Fort Wayne, Cincinnati, and Louisville Railroad in 1881 and to the Lake Erie & Western in 1890 (LE&W). In 1923, LE&W merged with the New York, Chicago, and St. Louis Railroad, also known as the 'Nickel Plate Road.' That railroad then merged with Norfolk and Western Railway Company (N&W) in 1964. N&W became a subsidiary of Norfolk Southern Corporation in 1982. NSR leased the Line to CSX in 1997. There are no structures located on the Line.

The Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology (State Historic Preservation Officer or SHPO) submitted comments stating that no known historic buildings, structures, districts, or objects listed in or eligible for listing in the National Register are located within the project area. The SHPO also states that no known archaeological resources eligible for inclusion in the National Register would be affected by the proposed abandonment. The SHPO states that, should any archaeological artifacts or human remains be discovered during abandonment activities, operations should cease and NSR should immediately notify the SHPO. Accordingly, OEA is recommending a condition requiring NSR to cease work and notify the OEA, the SHPO, and other consulting parties, if any, should archaeological artifacts or human remains be discovered during salvage operations.

OEA has reviewed the available information and concurs with the SHPO's comments. Accordingly, pursuant to the Section 106 regulations of NHPA, and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not adversely affect historic properties or archaeological resources listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of the railroad's Historic Report, all relevant correspondence, the EA, and this document, which have been provided to the SHPO and made available to the public on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁸ The database indicated that the following federally

⁸ National Park Service, National NAGPRA Program Native American Consultation

recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Delaware Nation in Oklahoma;
- Forest County Potawatomi Community in Wisconsin;
- Hannahville Indian Community in Michigan;
- Miami Tribe of Oklahoma;
- Ottawa Tribe of Oklahoma; and
- Peoria Tribe of Indians of Oklahoma.

Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

We recommend that the following condition be imposed on any decision granting abandonment authority:

- 1. In the event that any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices are discovered, Norfolk Southern Railway Company (NSR) shall immediately cease all work and notify the Board's Office of Environmental Analysis (OEA) and the Division of Historic Preservation and Archaeology of the Indiana Department of Natural Resources (the State Historic Preservation Office or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, NSR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, if the condition above is imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

Requests for a notice of interim trail use (NITU) are due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket Nos. AB-290 (Sub-No. 352X) and AB-1093 (Sub-No. 1X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: November 20, 2013

Comment due date: December 5, 2013

By the Board, Victoria Rutson, Director, Office of Environmental Analysis